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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/801,958	03/15/2004	Dieter-Jochen Barmann	ZTP01P14031	2361
24131	7590	10/19/2005		
LERNER AND GREENBERG, PA P O BOX 2480 HOLLYWOOD, FL 33022-2480			EXAMINER ZEC, FILIP	
			ART UNIT	PAPER NUMBER
			3744	

DATE MAILED: 10/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/801,958	BARMANN ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Filip Zec	3744	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 11 July 2005.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-11 and 13-29 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 13-20, 22, 28 and 29 is/are allowed.
- 6) ☒ Claim(s) 1-6, 11, 21 and 23-27 is/are rejected.
- 7) ☒ Claim(s) 7-10 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 July 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Drawings***

1. The drawings were received on 7/11/2005. These drawings are acceptable.

### ***Response to Arguments***

2. Applicant's arguments filed 7/11/2005 have been fully considered but they are not persuasive.

The applicant's main argument is that the hollow body claimed in independent claims 1 and 27, is not taught in the prior art references. A closer observation of both Japanese Patent Publication 11-241880 to Iguchi et al. and U.S. Patent 3,169,383 to Morton et al., clearly shows a hollow body (Iguchi: 11, FIG. 3; Morton 52, FIG. 2), defined by the back and front walls (Iguchi: 6 and 8, FIG. 3, respectively; Morton: 48 and 51, FIG. 2, respectively). Essentially, the applicant is claiming, vaguely and not precisely, a one-piece structure, taught in prior art as a composition of similar elements. The applicant is reminded that the use of a one piece construction instead of the structure disclosed in Morton and Iguchi, respectively, would be merely a matter of obvious engineering choice, *In re Larson*, 340 F.2d 965, 968, 144 USPQ 347, 349 (CCPA 1965). Therefore, the rejections as listed in the first Office Action remain.

*Claim Rejections - 35 USC § 102*

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-5, 11, 21, 23, 24 and 27 are rejected under 35 U.S.C. 102(b) as being anticipated by Japanese Patent Publication 11-241880 to Iguchi et al. Iguchi et al. teach the elements claimed by the applicant, namely a thermally insulated housing (12, FIG. 1), defining an internal area (9, FIG. 1) cooled by the circulating air (arrows in FIG. 2); a hollow body (8, FIG. 3), disposed in said internal area and bounding a flow channel (11, FIG. 3) for guiding the cooling air; cooled item supports (2, FIG. 3) disposed in said internal area and supported on said hollow body (22, 28, FIG. 3); said internal area has a first wall (6, FIG. 3) which is in contact with said hollow body (28, FIG. 3); said first wall is the rear wall of said internal area (FIG. 2); said flow channel is bounded by said hollow body and said first wall (FIG. 3); a connecting body described as a suspension hook (22, FIG. 3) holding said hollow body at said first wall, engaged to a plurality of holders (26, 28 FIG. 4), disposed along at least one vertical line and a lever means on both the support and the hollow body (27 and 28, FIG. 3, respectively) for locking the support to the hollow body, said support having a vertically oriented contour (28, FIG. 3) selectively engaged with the bar (26, FIG. 3) and preventing the movement of the support with respect to the hollow body.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-4 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 3,169,383 to Morton et al. In FIG. 2, Morton discloses applicant's basic inventive concept, namely a thermally insulated housing (10, FIG. 1; col 1, line 60), defining an internal area (12) cooled by the circulating air (arrows in FIG. 2); a hollow body (48), disposed in said internal area and bounding a flow channel (52, 55) for guiding the cooling air; a cooled item support (30) disposed in said internal area and supported (62, 63 FIG. 6) on said hollow body; said internal area has a first wall (liner shell 16, comprised of walls 17-21) which is in contact with said hollow body through the second wall (19 and 20, FIG. 1) via projections (49, FIG. 5) and said hollow body having an extruded profile and is made out of metal (col 2, line 51), substantially as claimed with the exception of stating multiple supports located in the cooling area. However, the applicant should note that even though Morton does not disclose a plurality of supports, a mere duplication of parts has no patentable significance, unless a new and unexpected result is produced. *In re Harza*, 274 F.2d 669, 124 USPQ 378 (CCPA 1960). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the system of Morton, by adding multiple supports in order to improve the quantitative value of the product.

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7. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 3,169,383 to Morton et al., in view of U.S. Patent 4,190,305 to Knight et al. Morton discloses applicant's basic inventive concept, a thermally insulated housing, defining an internal area cooled by the circulating air, a hollow body, disposed in said internal area and bounding a flow channel for guiding the cooling air, a cooled item support disposed in said internal area and supported on said hollow body and said internal area having a first wall which is in contact with said hollow body, substantially as claimed with the exception of specifically stating the use of a stiffener behind the first wall connected to the hollow body. Knight shows a stiffener (52, FIG. 7) used in the rear wall of a refrigerator to be old in the refrigerating art. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made from the teaching of Knight to modify the rear wall of Morton, by adding a stiffener in order to add the structural support to the area most susceptible to bending (col 7, line 35).

8. Claim 26 is rejected under 35 U.S.C. 103(a) as being unpatentable over Japanese Patent Publication 11-241880 to Iguchi et al., in view of Japanese Patent Publication 11-257830 to Iguchi et al. Iguchi ('880) discloses applicant's basic inventive concept, a thermally insulated housing, defining an internal area cooled by the circulating air, a hollow body, disposed in said internal area and bounding a flow channel for guiding the cooling air, a cooled item support disposed in said internal area and supported on said hollow body and said internal area having a first wall which is in contact with said hollow body, substantially as claimed with the exception of stating the use of air passage openings in the hollow body, being actuator-controlled by shutters for selective closing and opening. Iguchi ('830) shows air passage openings (33) in the hollow body, being actuator-controlled by shutters (37) for selective closing and opening to be

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old in the refrigerating art. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made from the teaching of Iguchi ('830) to modify the rear wall of Iguchi ('880), by adding air passage openings in the hollow body, being actuator-controlled by shutters for selective closing and opening in order to further improve the cooling of the internal area by having a near freezing air enter alongside the whole hollow body and not just at the top or bottom.

*Allowable Subject Matter*

9. Claims 13-20, 22, 28 and 29 are allowed.
10. Claims 7-10 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

*Conclusion*

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Patent 5,632,160 to Harangozo, Martin J. et al. teaches a refrigerator with an improved airflow system.

12. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after

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the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.


13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Filip Zec whose telephone number is (571) 272-4815. The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Melba Bumgarner can be reached on 571-272-4709. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Filip Zec  
Examiner  
Art Unit 3744

FZ

  
MELBA N. BUMGARNER  
PRIMARY EXAMINER